

THEY MUST HANG

Exceptions of Kapea and Kaio Overruled.

Supreme Court Decided Yesterday That the Law Must Take Its Course.

The last hope of Kapea and Kaio, who were convicted, the one of murdering Dr. J. K. Smith of Kauai, and the other of having been accessory before the fact, was taken from them yesterday, when the Supreme Court handed down a unanimous decision, overruling the exceptions taken by the counsel for the condemned men to the decision of Judge Perry.

The opinion is lengthy and discusses in detail each point made by the defense in the exceptions. Numerous cases are cited to substantiate the opinion. At its conclusion the Court states: "On a careful examination of all the evidence and papers in the case we find the defendants had a fair trial and every reasonable opportunity afforded them for their defense and the law which has been violated must take its course."

The Court makes ten points in its decision as follows, covering all the points of the exception:

1. Special terms of the Circuit Court when called in pursuance of and in accordance with the statute, have jurisdiction to try all indictments presented, whether presented at a previous regular term or not and though the accused had been committed to be tried at a term subsequent to the special term. District magistrates should commit accused for trial at the "next term" of the Circuit Court and not designate the date of the term.

2. An indictment for murder in the first degree describing the offense is not fatally defective because in its conclusion it does not name the deceased.

3. Where has been tried by an impartial jury, the disallowance of a juror for a cause of questionable sufficiency is not ground for reversal; nor when a juror once accepted is thereafter challenged peremptorily; nor when once accepted he is recalled to answer questions suggested either by the juror himself or from the examination of other jurors, and is therefore challenged peremptorily or excluded by the Court, provided the jury is not sworn and no evidence has been taken.

4. It is not reversible error for the Court to decline to order the Marshal to allow counsel for defense to have a private interview with certain witnesses for the prosecution who are in custody of the Marshal held under a statutory commitment.

5. Questions on the redirect may be allowed in the discretion of the Court to enable the witness to make his meaning clear, though not directly connected with any matter brought out on the cross-examination, the witness having admitted that he had told some untruths in his previous testimony.

6. Where evidence has been introduced on behalf of defense without objection and undisputed by the prosecution showing the commission of larceny by a witness for the prosecution of the goods of one of the family of defendants and the demand of a certain sum of money to stop prosecution was paid by the said witness, it is harmless error to forbid further evidence on the facts of the larceny, there being no express proof of ill will or bias on the part of the witness towards or against the owner of the goods stolen.

7. Admissions of a defendant that he opposed and forbade the commission of murder is admissible as evidence of his knowledge of the intention to commit the murder.

8. On the trial of a person for the offense of murder in the first degree, where there is no evidence upon which the jury can find the defendant guilty of an offense of a lesser degree than the one charged, it is not error to charge the jury that if they believed the evidence of the prosecution they should find the defendant guilty of murder in the first degree or not guilty if they disbelieved the evidence.

9. By statute questions of law are for the Court and the instructions of the Court in relation to the law are binding on the jury.

10. The statute requires that in a capital case at least 48 hours shall intervene between a verdict of guilty and the sentence. The term of the Court would expire by limitation within 48 hours after verdict. Held, it was not error to postpone the rendition of sentence to the next term of the Court.

DUGUAY TROUIN.

French Ram Cruiser Comes Here From Callao.

The French ram cruiser, Duguay Trouin, Puginet commander, arrived in port and anchored in naval row yesterday morning, 27 days from Callao. Her destination, according to the officers aboard the ship is not known, but the impression seems to prevail that she is on her way to the China station on account of the war scare.

In October of last year the Duguay Trouin set out for San Francisco and from there started on her way home, stopping for different periods of time at various South American ports. At Callao she got orders to proceed straight to Honolulu. There is hardly any other conclusion than that she is bound to China.

The Duguay Trouin is a protected steel cruiser, registering 3,600 tons and

possessing 10 large and 11 small guns. She carries a crew of 350 men. Commander Fort, in charge of the French fleet on the Pacific, is aboard. The Duguay Trouin is in command of Commander Puginet. The other officers are the same as when she was here last.

The French cruiser will remain here just long enough to coal or for about four or five days. She will then proceed to sea under sealed orders.

WEATHER FORECAST.

Wind and Weather in N. Pacific Ocean For February.

Branch Hydrographic Office, San Francisco, Cal., Jan. 25, 1898. The following forecast has just been received from the Hydrographic Office, Washington, D. C.:

"Along its south side, in the part of the ocean east of the Hawaiian Islands, the trade winds may be expected to blow with a decidedly northern slant, while to the westward of them the trades may be expected generally to be E. by N. or E. N. E. ly. During February the belt of calms and variables between the trades may be expected to be narrow, so narrow in some places that a vessel may pass from one trade wind into the other without any perceptible break. North of the 35th parallel, frequent westerly gales, accompanied by rain or snow, may be expected.

"During this month occasional dangerous gales may be expected on the American coast north of the 40th parallel. Occasional squalls may be expected in the vicinity of the Hawaiian Islands.

"Typhoons are usually infrequent during February. The N. E. monsoon on the coast of China may be expected to continue to blow steadily during the month.

"Occasional fog will be found along the American coast, though not sufficient to warrant its probable limits being shown on the chart."

W. S. HUGHES,
Lieut., U. S. N.

AN ENDOWMENT.

John F. Hackfeld and Wife Endow a Hospital Ward.

For many years in this city, John F. Hackfeld, of the big mercantile concern of H. Hackfeld & Co., Ltd., and as well Imperial German Consul, has been known to a limited number of members of the community for his unostentatious charities. Very quietly he has time and again assisted the needy, being very ready to believe the distressed or contribute liberally to any worthy object.

The latest generosity of Mr. Hackfeld, and another in which Mrs. Hackfeld is also co-operative, is something which cannot well be kept secret by the gentleman and his wife. Mr. and Mrs. John F. Hackfeld have endowed a bed at the Queen's Hospital. They have given the sum of \$5,000 outright for this purpose. The ward will at all times be at the disposal of persons recommended by the German Benevolent Society. This most commendable act has been done very quietly.

NUUANU STATION.

Three Applicants for the Place Left by Mr. Cassidy.

There are now on file at the office of the Minister of the Interior but three applications for the place made vacant by the acceptance of John Cassidy of the management of the Mutual Telephone Company's plant. Mr. Cassidy had been in charge for a long time of the Government Electric Station supplying lights for the streets and public buildings. The men who are after the place up the valley are Messrs. Smyth, who had the position at one time several years ago, Mr. Buck, the young electrician lately arrived from the United States and Mr. Starbird, a lineman with the Hawaiian company. Mr. Smyth has local endorsement, while Mr. Buck has some friends in Honolulu, as well as recommendations from good and responsible people abroad. Mr. Starbird has city advocates. The race is a pretty close one with the first place chance at the present time rather between Mr. Buck and Mr. Starbird.

Y. H. I.

Several Amendments to The By-Laws—Benefits Dws.

At the meeting of the Y. H. I. held last evening in Foster Hall, there were present 28 members.

The most important business before the meeting was the proposed amendment to section 2 of Article 4 of the Constitution as follows: "Every member of the Institute, not otherwise exempted, shall pay monthly dues of one dollar per month." This was unanimously adopted.

The usual sick benefit, according to the constitution, was allowed to one member.

Several new applications were handed in for membership.

A design for a badge in the shape of a heraldic shield inside a circle, was adopted.

A resolution to raise the sick relief to one dollar per day instead of fifty cents, was placed on file for further discussion.

After debate on general topics, the meeting adjourned.

BILMARTIN STOPS

He Will Race and Will Be Mild and Gentle.

Rider With "All Kinds" of a Record Diversions in the Colonies—Terrill and Jones.

Bilmartin, who has been out of training since last October, and who has been aboard a steamer for three weeks, left the Mariposa here yesterday and entered in the races to take place at Cyclomere, Saturday night. Bilmartin is known over the world as a premier plucker, but has at times done some AI sprinting. The young man is tame now after his experiences in the Colonies and has furnished a bond in cash of \$3,000 against losing his temper while here. Bilmartin ought to be subdued the rest of his life. Down in the Colonies he was abused by a spectator. He "punched" the spectator. The judge said that instead of breaking records he could break stone for fourteen days, and Bilmartin did it. The Colonial papers were full of him for months and he even waked up some half-baked poets. Bilmartin differed with a referee and was fined \$20. This made him mad and he said some things that cost him suspension for two years. He left the country soon after that, but before departure sued a newspaper for libel and was awarded \$250. Bilmartin is not bad. He's just a little spirited at times—that's all. Bilmartin has two scrap books, each the size of a cake of ice and Clement will show them to callers at the office of Bruce Waring & Co.

W. H. Cornwell, Jr., had entered for both the amateur events Saturday night on Wednesday, but by an oversight was not listed by Manager Clement's private secretary till yesterday. In the handicap, Cornwell is at the forty yard mark in the second heat.

Articles for the Terrill-Jones match, mile heats, best two in three, were signed yesterday. The race will be ridden at Cyclomere on Tuesday evening, February 5. There will be seven or eight other numbers on the program. Both men are training hard for the contest. It will be for a purse, winner to take the larger end of the total.

Bilmartin wants a five mile match and may get one on soon. Manoa, who was so badly hurt in his spill last Saturday night, will likely be able to ride next week. Either Manoa or Terrill are mentioned as "medicine" for Bilmartin.

PROMOTED.

Military Announcement from General Headquarters.

General Headquarters, Republic of Hawaii, Adjutant General's Office, Honolulu, H. I., February 2, 1898. General Orders No. 4.

The following promotions are announced for the information of the National Guard of Hawaii:

Louis T. Kenake, Adjutant and First Lieutenant, First Battalion, First Regiment, N. G. H., to be Captain Company B, First Regiment, N. G. H., with rank from February 1st, A. D. 1898, vice E. O. White, resigned.

Charles M. V. Foster, Sergeant Major First Battalion, First Regiment, N. G. H., to be Adjutant First Battalion, First Regiment, N. G. H., with rank of First Lieutenant from February 1st, A. D. 1898, vice Louis T. Kenake, promoted.

By order of the Commander-in-Chief.
(Signed) JNO. H. SOPER,
Adjutant General.

A copy.
JNO. SCHAEFFER,
Captain and Adjutant, First Regiment, N. G. H.

MORE LABO R.

Requisitions for 1290 Japanese are Approved.

The Board of Immigration held a meeting late yesterday evening to consider the application from plantation three months ending March 31. The three months ending March 31. The Minister of the Interior presided. The applications approved were as follows:

Castle & Cooke	330
Schaefer & Co.	120
Brewer & Co.	260
Henry Waterhouse & Co.	20
W. G. Irwin & Co.	150
T. H. Davies & Co.	220
Hackfeld & Co.	140
Alexander & Baldwin	100
Grinbaum & Co.	50
Total	1290

Opium Case.

In the Police Court yesterday morning the case of Kou Chin, for importing opium into the country, came up for trial. Kou Chin fought his case, but to no avail. Judge Wilcox found defendant guilty and sentenced him to pay a fine of \$500 and one month's imprisonment at hard labor. An appeal was noted and in the afternoon, defendant was released on bail put up by some of his friends.

Maui Officer.

Captain Scott, formerly of the Honolulu Police force, is in town again for a few days from Maui. He is chief

deputy of that Island under Sheriff Baldwin and has fully sustained the reputation he earned here and on Maui before as an efficient and intelligent officer. During the past year there has been a regular epidemic of crime on Maui and Sheriff Baldwin and Deputy Scott, have had their hands full and have done exceptionally good work. They have handled no less than six cases of manslaughter and murder. Two of the criminals are now under sentence of death and four are in prison for long terms. After a bit of a rest here Mr. Scott will return to Maui.

Christian Workers.

The meeting of the Christian workers will be held this afternoon, (Friday), at 3:30 o'clock at the Y. M. C. A. hall. Rev. Mr. Pearson will speak with reference to "Pioneer Work in Arizona." This is an undenominational gathering and a cordial invitation is given to all to be present.

LOCAL BREVITIES.

Sugar 4 1-16. Slight decline.

The January death rate was very heavy.

There are over 40 Klondikers aboard the Mariposa.

Mr. W. G. Irwin is expected to return in about two weeks.

Ash Wednesday falls on the 23 inst., and it is on that day that Lent begins.

"Josh" Tucker will be sergeant-at-arms for the house of representatives again.

Dr. L. F. Alvarez discontinued the use of the serum treatment at Kalihi some months ago.

J. O. Carter and Mrs. Carter have arrived in Washington and are quartered at the Ebbitt House.

Mr. and Mrs. F. L. Stolz left San Francisco a fortnight ago to visit friends in Brooklyn, N. Y.

It is Capt. Louis Kenake now. His election to the command of Company B last evening was unanimous.

The Cabinet was busy all of yesterday forenoon preparing dispatches to the Hawaiian Legation, Washington.

George Ashley is quite an enthusiastic cyclist and has secured from the Coast a nickel-plated chainless safety.

The Mariposa got away on time yesterday with some 20 cabin passengers and a cargo of island product for San Francisco.

Professor Scott will read the paper at the next meeting of the Social Science Club and will treat of Forests and Rainfall.

The Mariposa brought a consignment of 790 Samoan coconuts for H. E. McIntyre. They are in the very best of condition.

Letters date January 25, were sent to the Government from the Hawaiian Legation at Washington and were encouraging in tone.

J. H. Regan, ex-chief of the Boston fire department, was a through passenger on the Peru. He paid a visit to Chief Hunt while here.

Harry Reynolds who won the one mile world's bicycle championship in Copenhagen two years ago will be here from the Colonies in March.

Rudolph Spreckels came down on the Peru this morning to attend to business interests here. He will be on the islands some little time.

To the matter of city pleasure grounds the Young Men's Research Club will add for discussion a project for model city coffee shops.

Editor Pospoe is translating and publishing in the Kuokoa Lorrin A. Thurston's "Twenty objections and replies on the Annexation question."

There are some beautiful imitation Mexican onyx cups and saucers at W. W. Dimond's as well as other most attractive pieces of decorated china.

The C. D. Bryant brought 20 fine mules for Wm. Norton, a horse for T. V. King and a very small Shetland pony for American Minister Sewall's child.

In the cargo of the Australia is quite a large consignment of rubber tired wheels for light and heavy vehicles, sent down in the name of John H. Wilson.

There was no meeting of the Board of Education yesterday. Minister Cooper was very busy and then there was not much important business to be transacted.

The Board of Health will insist that unwashed milk be sold by the dealers. A showing of pure milk in eleven cases out of thirteen is not bad for an unannounced test.

In the theater at the Progress block there is being applied "Alpine" plaster,

Delicious!

Schilling's Best tea to go with biscuits made with Schilling's Best baking powder.

No harm in jam though; but the jam has got to be awfully good to go with such biscuits and tea.

A Schilling & Company

Calendars for 1898.

For the benefit of our many friends and customers on the other Islands or outside of Honolulu, we wish to state that the car containing our CALENDARS met with an accident on the way to San Francisco, and was burnt with all its contents. We have reordered them, and as soon as they arrive, will distribute them as we always have done.

E. O. HALL & SON, LTD.
1935-3w

a California product. It dries hard in a very short time. This plaster is entirely new here.

Gear, Lansing & Co., and J. M. Monarrat, have followed the lead of Bruce Waring & Co., in advertising island coffee lands in the San Francisco Chronicle.

Professor Koebele and Jos. Marsden leave for Hawaii by the Kinau this morning and for one thing will try and learn what enemy is after certain coffee in Puna.

Attorney Wheeler of San Francisco, one of the best known lawyers in that place, came down on the Peru to spend a short vacation here. He accompanies Rudolph Spreckels.

In the New York Press supplement of Sunday, January 2, there was published an argument for annexation by Lorrin A. Thurston with a fine half-tone likeness of the writer.

John R. Musick's new book, "Hawaii: Our New Passion," is just out. The Hawaiian News Co., Ltd., are the sole agents, and they expect the first consignment in about three weeks.

BY AUTHORITY.

BY THE ACTING PRESIDENT OF THE REPUBLIC OF HAWAII.

A PROCLAMATION.

Whereas the Constitution requires that the first regular Session of the Legislature of the Republic of Hawaii shall be held on the third Wednesday of February, 1896, and biennial thereafter, in Honolulu,

Now Therefore I, HENRY E. COOPER, Minister of Foreign Affairs, Acting President of the Republic of Hawaii, hereby give notice that the second regular session will convene at the Executive Building, in Honolulu, on Wednesday, the 16th day of February next, at 12 o'clock noon.

Written at the Executive Building in Honolulu, this 29th day of January, A. D. 1898.

(Sig.) HENRY E. COOPER.
By the Acting President.

(Sig.) J. A. KING,
Minister of the Interior.
4830-3t 1938-3t

PUBLIC LANDS NOTICE.

On Saturday, February 5th, 9 o'clock a. m., at the office of E. D. Baldwin, Hilo, Hawaii, will be opened for application under the Provisions of the Land Act for Right of Purchase Leases and Cash Freeholds, or under special conditions of payment and improvement and requiring residence:

About 800 acres in Maulua and vicinity, North Hilo, Hawaii. This tract is divided into lots of from 5 to 75 acres each, and is specially adapted to cane culture.

Also 6 Lots in Kaimu, Puna, of from 75 to 100 acres each, suited to coffee culture.

At 12 o'clock noon, on same date, February 5th, will be sold at auction under special conditions of payment and improvement, Lots 369 and 370, Olua, containing 100 acres. Upset price \$600.

Lot No. 10, Kahuku, 19.85 acres. Upset price, \$198.50.

There will also be sold for cash at same time, Lot 27, part C, Olua, containing 39.0 acres. Upset price, \$39.

Full particulars as to above may be had at the Public Lands Office, Honolulu, or of the sub-agent in Hilo, Hawaii.

J. F. BROWN,
Agent of Public Lands.

Public Lands Office, Honolulu, January 4, 1898. 1931-td

PUBLIC LANDS NOTICE.

On Saturday, February 5th, 12 o'clock noon, at the front entrance of the Judiciary Building, Honolulu, will be sold leases of the following lands, viz.:

1—KAAUHUHU, KOHALA. 583 acres. Term, 15 years from May 1, 1898. Upset rental, \$1,400 a year.

2—KAAUHUHU, KOHALA. 100 acres. Term, 15 years from May 1, 1898. Upset rental, \$300 a year.

3—ILI OF KOU, WAIHEHU. 300 acres, more or less. Term, 21 years from June 14, 1898. Upset rental, \$450.

At the same day and hour at the office of J. Kaelemakule, Kailua, N. Kona, will be sold lease of portion of PUUANAHULU, 12,000 acres, more or less. Term, 21 years. Upset rental, \$150 a year.

This lease is upon special conditions of improvements and carries with it certain cattle shooting privileges on adjoining Government lands.

Also will be sold at the same time and place, under special terms of pay-

ment and improvement, 116 acres of land at PUUANAHULU. Upset price, \$298.25.

Plans and full particulars as to the above may be had at Public Lands Office, Honolulu.

J. F. BROWN,
Agent of Public Lands.

1930-td

PUBLIC LANDS NOTICE.

Notice is hereby given that the sale and lease of land in PUUANAHULU, N. Kona, Hawaii, advertised for the 5th of February, 1898, at the office of J. Kaelemakule, Kailua, is postponed until further notice.

J. F. BROWN,
Agent of Public Lands.

January 24, 1898. 1936-td

PUBLIC LANDS NOTICE.

On February 14, 1898, at 12 o'clock noon, will be sold at public auction, at the office of W. O. Aiken, Paia, Maui.

Lot in Nahiku, Maui, containing 7 acres; upset price, \$50.00.

For further particulars apply at office of W. O. Aiken, Paia, Maui, or at Public Lands Office, Honolulu.

J. F. BROWN,
Agent Public Lands.
1935-td

A Strictly OLD LINE Company.

THE PROVIDENT SAVINGS LIFE ASSURANCE SOCIETY OF NEW YORK.

E. W. SCOTT, President.

THE BEST COMPANY FOR POLICY HOLDERS. ISSUES MOST LIBERAL CONTRACTS, AT LOWEST RATES. BEFORE APPLYING FOR A POLICY ELSEWHERE, CALL FOR FULL PARTICULARS UPON

E. R. ADAMS,
No. 407 Fort Street. General Agent.

OUR REPUTATION

For fine watch work is widespread; but we wish to impress the few who may not yet be in line, with the necessity of sending their watches, when out of order to us directly; and not first allow every tinkler to ruin the watch, after which, send it to us for proper repairs.

The Cost is always more to you, after such treatment; ever so much better to send it right down to us, for we allow nothing but perfect work to leave our workshop.

You will be surprised, too, how much cheaper it will be, and how much more satisfactory to you.

Watches are securely packed in wooden boxes, and returned in the safest possible manner.

H. F. WICHMAN
BOX 342.

★
DAILY
Chronicle,
Examiner,
and Call.
(SAN FRANCISCO.)

Your Choice of either the above

Great Papers

Only \$1.00 a Month.

MAILED FREE!

Send for a copy of our new Subscription Catalogue.

LOWEST PRICES. PROMPT SERVICE.

SUBSCRIPTION DEPT. OF

Wall, Nichols Company
HONOLULU.

3,000 BICYCLES
Must be sold out. HIGH GRADE NEW